

determines that recipient health and safety are compromised. Recipients have freedom of choice regarding the selection of service providers.

5. The MHR provider and/or the staff may be required to complete education and training in all aspects of MHR policy and billing procedures, including training relevant to providing quality MHR services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1091 (May 2005).

Chapter 13. Appeals

§1301. Appeal Procedure

A. A MHR provider that contests any adverse action taken by the BHSF may appeal such action by submitting a written request for appeal to the department's Bureau of Appeals.

B. The appeal request must be received by the department's Bureau of Appeals within 30 days of the MHR provider's receipt of the written notification of the department's action. The appeal request must specify, in detail, the reasons for the appeal and state the reasons why the MHR provider contends that it is aggrieved by the department's action.

C. Sanctions in the form of a termination based on fraud and abuse or health and safety shall take effect immediately upon notice by the department.

D. Except in cases involving health and safety or program integrity issues where fraud or abuse is at issue, a sanctioned MHR provider who has timely filed an appeal shall be allowed to accept new clients during the appeals process unless the appeal is delayed beyond 90 days due to action on the part of the MHR provider. If the appeal is delayed beyond 90 days due to action on the part of the MHR provider, the provider may be prohibited from taking on new clients until a ruling on the appeal has been issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1092 (May 2005).

Frederick P. Cerise, M.D., M.P.H.
Secretary

0505#048

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Urine Drug Screening Laboratories

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals the following Rules as authorized by R.S. 49:1005. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the November 20, 1991, February 20, 1992 and March 20, 1994 Rules governing the licensing and regulation of urine drug screening laboratories.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0505#050

RULE

Department of Insurance Office of the Commissioner

Regulation Number 83• Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations (LAC 37:XIII.Chapter 105)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts Regulation 83 relating to a domestic insurer's use of Custodial Agreements and Clearing Corporations in the safekeeping of its security deposits. This Regulation will become effective upon publication in the May 2005 *Louisiana Register*. This action complies with the statutory law administered by the Department of Insurance.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 105. Regulation Number 83• Domestic Insurer's Use of Custodial Agreements and the Use of Clearing Corporations

§10501. Definitions

A. When used in this regulation, the term:

Agent• a national bank, state bank, trust company or broker/dealer that maintains an account in its name in a clearing corporation or that is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or Treasury Direct systems, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *agent* may include a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

Clearing Corporation• a corporation, as defined in Section 8-102(a)(5) of the Uniform Commercial Code, that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein,

clearing corporation may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301.

***Custodian* •**

a. a national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, *custodian* may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or

b. a broker/dealer that shall be a member of the National Association of Security Dealers, registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, has an agency office in this state and has a tangible net worth equal to or greater than \$250,000,000.

***Custodied Securities* •** securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Equity Securities System (TRADES) or Treasury Direct systems.

***Security* •** has the same meaning as that defined in Section 8-102(a)(15) of the Uniform Commercial Code.

***Securities' Certificate* •** has the same meaning as that defined in Section 8-102(a)(16) of the Uniform Commercial Code.

***Tangible Net Worth* •** shareholders equity, less intangible assets, as reported in the broker/dealer's most recent Annual or Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (S.E.C. Form 10-K) filed with the Securities and Exchange Commission.

***Treasury/Reserve Automated Debt Entry Securities System (TRADES) and Treasury Direct* •** the book entry securities systems established pursuant to 31 U.S.C. §3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301. The operation of TRADES and Treasury Direct are subject to 31 C.F.R. pt. 357 et seq.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1092 (May 2005).

§10503. Custody Agreement; Requirements

A. An insurance company may, by written agreement with a custodian, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.

B. The agreement shall be in writing and shall be authorized by a resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement shall comply with the following.

1. Securities' certificates held by the custodian shall be held separate from the securities' certificates of the custodian and of all of its other customers.

2. Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the insurance company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent.

3. All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.

4. Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in Section 22:1021 of this insurance law shall, to the extent required by that Section, be under the control of the Louisiana Department of Insurance and shall not be withdrawn by the insurance company without the approval of the Louisiana Department of Insurance.

5. The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at times and containing information reasonably requested by the insurance company. If applicable, the custodian's trust committee's annual reports of its review of the insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.

6. During the course of the custodian's regular business hours, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.

7. The custodian and its agents shall be required to maintain and make available to the insurance company as it may reasonably request:

a. reports which they receive from a clearing corporation on their respective systems of internal accounting control; and

b. reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities.

8. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in an audit of the financial statements of the insurance company.

9. The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form attached to this regulation, with respect to custodied securities.

10. A national bank, state bank or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the Securities Investor Protection Corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.

11. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction.

12. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in Paragraph 11 above, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from the loss of securities. Such indemnification does not apply to nor protect against losses from any change in the market value of custodied securities.

13. The agreement may provide that the custodian will not be liable for a failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.

14. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of

custodied securities as the custodian. However, if the agent shall be subject to regulation under the laws of a jurisdiction that is different from the jurisdiction the laws of which regulate the custodian, the Commissioner of Insurance of the state of domicile of the insurance company may accept a standard of liability applicable to the agent that is different from the standard of liability applicable to the custodian.

15. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if 100 percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three business days of the receipt by the custodian of the insurer's written notice of termination or within three business days of the withdrawal of 100 percent of the account assets.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1093 (May 2005).

§10505. Deposit with Affiliates; Requirements

A. Nothing in this regulation shall prevent an insurance company from depositing securities with another insurance company with which the depositing insurance company is affiliated, provided that the securities are deposited pursuant to a written agreement authorized by the board of directors of the depositing insurance company or an authorized committee thereof and that the receiving insurance company is organized under the laws of one of the states of the United States of America or of the District of Columbia. If the respective states of domicile of the depositing and receiving insurance companies are not the same, the depositing insurance company shall have given notice of the deposit to the insurance commissioner in the state of its domicile and the insurance commissioner shall not have objected to it within 30 days of the receipt of the notice.

B. The terms of the agreement shall comply with the following.

1. The insurance company receiving the deposit shall maintain records adequate to identify and verify the securities belonging to the depositing insurance company.

2. The receiving insurance company shall allow representatives of an appropriate regulatory body to examine records relating to securities held subject to the agreement.

3. The depositing insurance company may authorize the receiving insurance company:

a. to hold the securities of the depositing insurance company in bulk, in certificates issued in the name of the receiving insurance company or its nominee, and to commingle them with securities owned by other affiliates of the receiving insurance company; and

b. to provide for the securities to be held by a custodian, including the custodian of securities of the receiving insurance company or in a clearing corporation.

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1094 (May 2005).

§10507. Custodian Affidavit• Form A

CUSTODIAN AFFIDAVIT

(For use by a custodian where securities entrusted to its care have not been redeposited elsewhere.)

STATE OF _____)

_____) ss.

COUNTY OF _____)

_____, being duly sworn
deposes and says that he or she is _____ of
_____, a corporation
organized under and pursuant to the laws of the
_____ with the principal place of business at
_____ (hereinafter called the
"corporation"):

That his or her duties involve supervision of activities as
custodian and records relating thereto;

That the corporation is custodian for certain securities of
_____ having a
place of business at _____
_____ (hereinafter called the "insurance
company") pursuant to an agreement between the corporation
and the insurance company;

That the schedule attached hereto is a true and complete
statement of securities (other than those caused to be deposited
with The Depository Trust Company or like entity or a Federal
Reserve Bank under the TRADES or Treasury Direct systems)
which were in the custody of the corporation for the account
of the insurance company as of the close of business on
_____; that, unless otherwise indicated
on the schedule, the next maturing and all subsequent coupons
were then either attached to coupon bonds or in the process of
collection; and that, unless otherwise shown on the schedule,
all such securities were in bearer form or in registered form in
the name of the insurance company or its nominee or of the
corporation or its nominee, or were in the process of being
registered in such form;

That the corporation as custodian has the responsibility for
the safekeeping of such securities as that responsibility is
specifically set forth in the agreement between the corporation
as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless
otherwise shown on the schedule, the securities were the
property of the insurance company and were free of all liens,
claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

_____, (L.S.)

Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act
342 of the 2004 Louisiana Regular Legislative Session; R.S.
22:39.D.; and the Louisiana Administrative Procedure Act, R.S.
49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of
Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10509. Custodian Affidavit• Form B

CUSTODIAN AFFIDAVIT

(For use in instances where a custodian corporation maintains
securities on deposit with the Depository Trust Company or
like entity.)

STATE OF _____)

_____) ss.

COUNTY OF _____)

_____, being duly sworn
deposes and says that he or she is _____ of
_____, a corporation organized
under and pursuant to the laws of the _____
with the principal place of business at
_____ (hereinafter called the
"corporation"):

That his or her duties involve supervision of activities of
the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of
_____ having a place of business at

(hereinafter called the "insurance company") pursuant to an
agreement between the corporation and the insurance
company;

That the corporation has caused certain of such securities to
be deposited with _____ and
that the schedule attached hereto is a true and complete
statement of the securities of the insurance company of which
the corporation was custodian as of the close of business on
_____, and which were
so deposited on such date;

That the corporation as custodian has the responsibility for
the safekeeping of the securities both in the possession of the
corporation or deposited with _____ as
is specifically set forth in the agreement between the
corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless
otherwise shown on the schedule, the securities were the
property of the insurance company and were free of all liens,
claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

_____, (L.S.)

Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act
342 of the 2004 Louisiana Regular Legislative Session; R.S.
22:39.D.; and the Louisiana Administrative Procedure Act, R.S.
49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of
Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

§10511. Custodian Affidavit• Form C

CUSTODIAN AFFIDAVIT

(For use where ownership is evidenced by book entry at a
Federal Reserve Bank.)

STATE OF _____)

_____) ss.

COUNTY OF _____)

_____, being
duly sworn depose and says that he or she is _____
of _____, a
corporation organized under and pursuant to the laws of the
_____ with the principal place of
business at _____
(hereinafter called the "corporation"):

That his or her duties involve supervision of activities of
the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of
_____ with a place of
business at _____ (hereinafter called
the "insurance company") pursuant to an agreement between
the corporation and the insurance company;

That it has caused certain securities to be credited to its
book entry account with the Federal Reserve Bank of
_____ under the
TRADES or Treasury Direct systems; and that the schedule
attached hereto is a true and complete statement of the
securities of the insurance company of which the corporation
was custodian as of the close of business on
_____, which were in a "general" book entry
account maintained in the name of the corporation on the
books and records of the Federal Reserve Bank of
_____ at such date;

That the corporation has the responsibility for the
safekeeping of such securities both in the possession of the
corporation or in the "general" book entry account as is
specifically set forth in the agreement between the corporation
as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless
otherwise shown on the schedule, the securities were the
property of the insurance company and were free of all liens,
claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

_____, (L.S.)

Vice President [or other authorized officer]

AUTHORITY NOTE: Promulgated in accordance with Act 342 of the 2004 Louisiana Regular Legislative Session; R.S. 22:39.D.; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:1095 (May 2005).

J. Robert Wooley
Commissioner

0505#036

RULE

Department of Insurance Office of the Commissioner

Rule Number 10• Continuing Education (LAC 37:XI.717 and 723)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts these amendments to its Rule 10 relating to the guidelines for continuing education requirements. The amended Rule 10 will become effective upon publication in the May 2005 *Louisiana Register*. This action complies with the statutory law administered by the Department of Insurance.

Title 37 INSURANCE Part XI. Rules

Chapter 7. Rule Number 10• Continuing Education §717. Rule 10.10. Measurement of Credit

- A. - D.table. ...
- E. Example of Continuing Education Credit Chart• §717.D
 - 1. - 1.e. ...
 - f. F Division hours 4.
- F. - G. ...

H.1. Members of state or national professional associations may be granted four continuing education credits each year for actively participating in a state or national insurance association in one of the following methods:

- a. attend a formal meeting of a state or national association where a formal business program is presented and attendance is verified in a manner consistent with the provisions of Rule 10;
- b. serve on the board of directors or a formal committee of a state or national chapter of the association, and actively participate in the activities of the board or committee;
- c. participate in industry, regulatory, or legislative meetings held by or on behalf of a state or national chapter of the association; or
- d. participate in other formal insurance business activities of a state or national chapter of the association.

2. In order to qualify for continuing education credit under this provision, members must attend at least 4 hours of qualified activities. Continuing education credit shall be given as one 4 hour increment each year from the association in a manner consistent with the provisions of Rule 10. The association shall be responsible for verifying

attendance or participation of members for all events where continuing education credit is given under the terms of this provision. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The association shall file with the department for approval of a "course number" which shall be shown on all continuing education certificates issued under the terms of this provision.

3. Continuing education credit for membership in a bail bond association may only be applied towards renewal or reinstatement of a bail bond producer license. Continuing education credit for membership in a life, health and accident, property or casualty type association may only be applied towards renewal or reinstatement of a similar producer license.

4. Licensed producers may receive multiple member association certifications due to membership in more than one association; however, the licensee may only apply one membership certification to each renewal of his license. This certification must have been issued within the two year period immediately preceding renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session; R.S. 22:1193; and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 16:858 (October 1990), amended LR 17:792 (August 1991), LR 20:1395 (December 1994), LR 28:509 (March 2002), LR 31:1096 (May 2005).

§723. Rule 10.13 Credit for Individual Study Programs

A. ...

B. Insurance companies admitted to do business in the state of Louisiana, insurance trade associations as recognized by the commissioner, and accredited public or private colleges or universities may be recognized as providers of independent study courses. Other organizations recommended by the council and authorized by the commissioner may be approved as providers of independent study courses if they meet one of the following qualifications:

- 1. five years or more experience as a recognized insurance education provider of independent study courses;
 - 2. accreditation by a national education organization.
- All individual study programs must be submitted for approval by the organization which compiles or publishes the course materials. All individual study courses must be approved prior to being offered to licensees for continuing education credit. Any such course approval is not transferable to any other entity.

C. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

D. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved individual study program providers as long as the provider controls the materials and testing.